

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

NICHOLAS THIELEN,

Plaintiff,

v.

Case No. 23-cv-1378-bhl

KILOLO KIJAKAZI,
Acting Commissioner of SSA,

Defendant.

**ORDER GRANTING MOTION FOR LEAVE TO PROCEED WITHOUT
PREPAYMENT OF FILING FEE**

On October 17, 2023, Plaintiff Nicholas Thielen filed a Social Security Complaint seeking review of a final decision by the Acting Commissioner of the Social Security Administration. (ECF No. 1.) That same day, he moved for leave to proceed without prepayment of the filing fee. (ECF No. 3.) The Court has authority to allow a litigant to proceed without prepaying the filing fee if it determines that the litigant is unable to pay the costs of commencing the action and the action is not frivolous, fails to state a claim, or is brought against an immune defendant. *Cf.* 28 U.S.C. §1915(a)(1), (e)(2).

In his motion, Thielen indicates that he is unemployed and has no income or assets. (ECF No. 3.) He has \$700 in rent and other monthly expenses, which are covered by his mother. (*Id.*) On these facts, it appears that Thielen is sufficiently indigent for a fee waiver.

The Court must also review the complaint for sufficiency. If the complaint fails to state a claim on which relief may be granted, it must be dismissed. *See Luevano v. Wal-Mart Stores, Inc.*, 722 F.3d 1014, 1018 (7th Cir. 2013). Similarly, a frivolous complaint must also be dismissed. 28 U.S.C. §1915(e)(2)(B)(i). “A frivolous complaint is one in which ‘the petitioner can make no rational argument in law or facts to support his or her claim for relief.’” *Williams v. Faulkner*, 837 F.2d 304, 306 (7th Cir. 1988) (quoting *Jones v. Morris*, 777 F.2d 1277, 1279-80 (7th Cir. 1985)).

Here, Thielen timely invoked this Court’s jurisdiction pursuant to 42 U.S.C. § 1383(c)(3). (ECF No. 1.) He argues that the administrative law judge decision denying his claim for Social

Security benefits is not supported by substantial evidence and is contrary to law. (*Id.*) This is not frivolous and states an arguable claim. As a result, the Court will grant Thielen's request to waive prepayment of the filing fee.

IT IS HEREBY ORDERED that Plaintiff Nicholas Thielen's motion for leave to proceed without prepayment of the filing fee, ECF No. 3, is **GRANTED**.

Dated at Milwaukee, Wisconsin on October 17, 2023.

s/ Brett H. Ludwig

BRETT H. LUDWIG

United States District Judge